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FISCAL IMPACT STATEMENT

LS 7358

BILL NUMBER: HB 1556

NOTE PREPARED: Jan 7, 2011

BILL AMENDED:

SUBJECT: Ignition interlock devices.

FIRST AUTHOR: Rep. Clere

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Ignition Interlock Device* – It requires a court to prohibit a person convicted of operating while intoxicated from operating a motor vehicle that is not equipped with an ignition interlock device for: (1) at least six months, if the person does not have a prior conviction for operating while intoxicated; or (2) at least one year, if the person has a prior conviction for operating while intoxicated. It requires a court to order the installation of an ignition interlock device if the court grants a person probationary driving privileges in connection with an operating while intoxicated offense.
- B. *Class A Misdemeanor* – It makes it a Class A misdemeanor for a person to knowingly rent, lease, or loan a motor vehicle that is not equipped with a functioning ignition interlock device to a person who is restricted under a court order to the use of a vehicle with an ignition interlock device.
- C. *Determination of Indigence* – It removes language permitting a court to make a determination whether a person is indigent for purposes of determining whether to require the person to pay costs associated with the installation of an ignition interlock device.
- D. It makes conforming amendments and repeals superseded provisions.

Effective Date: July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues: This bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. Currently, the maximum judgment for a Class A infraction is \$10,000, which is deposited into the state General Fund, while the maximum fine for

a Class A misdemeanor is \$5,000, which is deposited into the Common School Fund.

Besides the issuance of fines, the sentencing court may assess a criminal costs fee if a guilty verdict is entered. The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Ignition Interlock Devices*- Requiring ignition interlock devices would result in minimal costs to counties. Counties do not incur any additional cost when a court orders a person convicted of operating a vehicle while intoxicated to install and maintain an ignition interlock system. Persons who are ordered to install and properly maintain an ignition interlock system on their car are to pay the entire costs of the operation. The average fee for installing an ignition interlock device is between \$70 and \$100, and the average cost of maintaining the device is between \$30 and \$60 per month.

Under current law, courts can suspend a person's driving privileges or order the use of an ignition interlock device as a condition of probationary driving privileges if the person did not refuse the test and has no prior OWI convictions within the previous ten years. Any other person with an OWI offense that has occurred within ten years is required to have an ignition interlock device installed during the probationary period (IC 9-30-5-16). A court may substitute an alcohol treatment program using disulfuram or a similar substance in lieu of installing ignition interlock devices in the vehicles of drivers if the prior offense occurred within the past five years (IC 9-30-5-7(d)).

As proposed, sentencing courts may grant a person probationary driving privileges if the court requires that the person has an ignition interlock device installed in the vehicle. Courts would also be prohibited from allowing persons to participate in an alcohol treatment program in which a person is taking disulfurum or similar substance.

Background: *Ignition Interlock Orders Between CY 2005 and CY 2009* -- When compared to the number of license suspensions for OWI, it appears that ignition interlocks are not frequently used by sentencing courts. The Bureau of Motor Vehicles (BMV) reports that 3,295 licenses were issued between 2005 and 2009 (roughly 660 per year) which restrict the holder of the license to only operate a vehicle equipped with an interlock device.

The following table shows 86 counties who ordered ignition interlocks be installed and the frequency of these court orders.

Licenses Requiring Ignition Interlock Installation Issued Between 2005 and 2009	
Number of Licenses Issued In County	Counties in which Ignition Interlocks were Ordered
4 or Fewer (26 Counties)	Daviess, Decatur, Harrison, Jackson, Jay, Jefferson, Jennings, Knox, Monroe, Morgan, Newton, Ohio, Orange, Owen, Perry, Pike, Rush, Scott, Shelby, Spencer, Steuben, Switzerland, Tipton, Union, Washington, Wells
Between 5 and 11 (19 Counties)	Adams, Bartholomew, Fayette, Franklin, Gibson, Jasper, Kosciusko, LaGrange, Marshall, Miami, Parke, Posey, Putnam, Ripley, Sullivan, Vermillion, Wabash, Wayne, Whitley
Between 12 and 32 (19 Counties)	Benton, Blackford, Boone, Carroll, Cass, Clark, Clay, DeKalb, Dubois, Floyd, Grant, Hendricks, Howard, Johnson, Madison, Pulaski, Randolph, Starke, White
Between 33 and 100 (16 Counties)	Clinton, Dearborn, Elkhart, Fountain, Fulton, Hamilton, Hancock, Henry, Lake, LaPorte, Montgomery, Noble, Porter, Vanderburgh, Warren, Warrick
Between 101 and 275 (5 Counties)	Allen, Delaware, Marion, Saint Joseph, Vigo
872 (1 County)	Tippecanoe

A Class A misdemeanor is punishable by up to one year in jail, although persons would more likely be sentenced to probation. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. Twenty-seven percent of criminal costs fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the criminal costs fee while the city or town general fund receives 25%. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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